Minority Rights in Europe

Policies and Practice in Southeast Europe

1990

POLFOTO

The Danish Parliament – The Folketinget, Copenhagen, Denmark

Report on the Conference in the Folketinget, Denmark
March 30 - April 1 1990

Minority Rights Group
Danish Helsinki Committee

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Vienna Meeting 1986

The following two principles were extracted from the concluding Document of the Vienna Meeting 1986 of Representatives of the Participating States of the Conference on Security and Co-operation in Europe, held on the basis of the Provision of the Final Act relating to the follow-up to the Conference.

Principles

18. The participating States will exert sustained efforts to implement the provisions of the Final Act and of the Madrid Concluding Document pertaining to national minorities. They will take all the necessary legislative, administrative, judicial and other measures and apply the relevant international instruments by which they may be bound, to ensure the protection of human rights and fundamental freedoms of persons belonging to national minorities within their territory. They will refrain from any discrimination against such persons and contribute to the realisation of their legitimate interests and aspirations in the field of human rights and fundamental freedoms.

19. They will protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory. They will respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others.

Participants

The Conference was planned to be a non-governmental conference of experts on minorities including some individual European members of the UN Human Rights Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, academic experts, intellectual leaders in the Minority Communities, non-government organisations and other authorities. In the event, Ambassadors and Diplomatic staff from seven different countries asked to attend and were invited in a personal capacity alongside the other participants.

148 people from the following 22 countries attended the conference:

Austria, Belgium, Bulgaria, Canada, Denmark, Finland, France, Germany (FDR), Greece, Hungary, Italy, Netherlands, Norway, Poland, Romania, Sweden, Switzerland, Turkey, United Kingdom (UK), United States of America (USA), Union of Soviet Socialist Republics (USSR) and Yugoslavia.

Absent Guest Speakers

Dr Ismail Besikci, the foremost expert on the Kurds in Turkey, who was to be the main speaker on this subject, was arrested in March in Turkey and charged under Article 142 for having made "separatist propaganda" by publishing a scholarly book on Kurdistan. The book has been confiscated.

Dr Sadik Ahmed Sadik, the former member of the Greek parliament, who also was to have been one of the main speakers, was given an eighteen month prison sentence in February and was deprived of his rights for three years essentially because he described the minority in question as Turkish.

On the first day of the conference Dr Sadik was released from prison and his severe sentence was changed to a fine by the Greek court of appeal. Dr Besikci was still in prison in Turkey when the Conference ended.

The Conference organisers had made appeals for the release of both Dr Besikci and Dr Sadik to the Turkish and Greek governments.

Minority Rights

Policies and Practice in Southeast Europe

Folketinget, Christiansborg Castle
Copenhagen, 30th March-1st April, 1990

AGENDA

FRIDAY 30TH MARCH:
Dinner – Welcome by Alan PHILLIPS, Director Minority Rights Group, London.
Speech: Ove NATHAN, Professor, Dr. Phil., Rector, University of Copenhagen.

SATURDAY 31ST MARCH:

■ Opening of the Conference
Erik SIESBY, Professor, Dr. Jur., University of Copenhagen, Chairman of the Danish Helsinki Committee.

■ Plenary speeches

'Minority protection in human rights conventions'
Danilo TURK, Professor of international law, University of Ljubljana, member of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities.

'The history of minorities and minority policies'
Emmanuel TURCZYNSKI, Professor, dipl.sc.pol., Dr. Phil., Germany.

'Aims, means and results of different minority policies'
Galina STAROVOJTOVA, Professor, Institute of Ethnography, Academy of Sciences, member of the Congress of the USSR.

UN Declaration on the Rights of Persons belonging to National, or ethnic, Religious or Linguistic Minorities and existing covenants and declarations concerning minorities
Gudmundur ALFREDSSON, UN Human Rights Centre, Geneva

■ Panel discussion on minority policy
Chairman: Bjorn ELMQUIST, Member of the Danish Parliament, Chairman of the Foreign Affairs Committee, Member of the Parliamentary Assembly of the Council of Europe.

PANEL: Professors Danilo TURK, Emmanuel TURCZYNSKI, Galina STAROVOJTOVA
Erik SIESBY and Helen KRAG, Professor, Minority Studies, University of Copenhagen.
Claire PALLEY, Professor of international law, Principal of St. Anne's College, Oxford; Member of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities.
Asbjorn EIDE, Director of the Norwegian Institute for Human Rights; Member of the UN Sub-commission on Prevention of Discrimination and Protection of Minorities.

■ Open Discussion – panel and floor.

■ Presentations on the situations of four minority groups:

'The Kurdish minority in Turkey'
Oman SHEIKHMOUS, researcher, Centre of Immigration Studies, University of Stockholm.

'The Turkish minority in Bulgaria'
Hasan KONI, Professor, Gazi University, Ankara.

'The Turkish minority in Northern Greece'
Dr Sadik AHMET, presented by Erhan IMAMOGLU.

'The Hungarian minority in Romania'
Dr Rodolf JOO, researcher on minority rights, editor of the Hungarian Democratic Forum's report on the Hungarian minority in Romania.

■ Five parallel working groups:

The Kurds in Turkey
The ethnic Turks in Bulgaria and in Northern Greece
The ethnic Hungarians in Romania
Minority policy – aims, means and results (Legal and Political)
Minority policy – aims, means and results (Cultural and Social)

■ Plenary Discussion
■ Reports from the working groups and general discussion
■ Debate on Proposals
■ Conclusions of conference: Alan Phillips, Minority Rights Group.
■ Closing Speech: Toger Seidenfaden Editor in Chief, Weekendavisen.
■ Close of Conference

Conference Objectives

The main objective of this conference was to study the various types of minority policies and their effects on the selected minorities under discussion. The plan was to initiate a real dialogue, recognising the situation of minorities, the sensitivities of majorities and providing recommendations which were intellectually sound, practically viable and advanced security and cooperation in Europe. The intention was to provide constructive proposals to the Conference on Security Co-operation in Europe (CSCE) and other bodies on minority rights.

Opening of the Conference:

Professor Erik Siesby

Representatives of the three Scandinavian Helsinki Committees, Minority Rights Group, London, Asbjorn Eide, Director of the Norwegian Human Rights Institute and Professor Helen Krag, University of Copenhagen, met in Copenhagen in March 1989 in order to plan a conference on minority rights. We decided that minority policy should be the main theme of the conference.

As illustrations of this general subject we chose Turkey's policy respecting the Kurds, the Bulgarian and Greek policies respecting the ethnic Turkish minorities and Romania's treatment of its Hungarian minority.

We did not then foresee that the year 1989 would become the great divide in European postwar history. The situations of the Bulgarian Turks and the Romanian Hungarians have changed completely but are today no less interesting.

Minority policy, has, I believe, because of the fundamental changes in Europe, become even more important than it was in March 1989. The lifting of the totalitarian pressure, the greater individual freedom, has meant that the ethnic minorities now claim respect for their identities and the right to develop their particular culture.

East-West confrontation is now history, instead a multitude of ethnic conflicts threaten the stability of several European societies.

It is my hope that we and others may draw a lesson from the consequences of the forced assimilation policies pursued in the Southeast of Europe.

Forced assimilation policy has had adverse consequences in the countries we are dealing with:

In Romania the whole population was oppressed but the Hungarians more than others. That may well be the reason why the revolt against Ceausescu started on December 18 in Timisoara when Hungarians protested against Securitate's attempt to remove the Hungarian clergyman, now bishop, Laszlo Tokes.

In Bulgaria the oppression of the Turkish minority resulted in an exodus of more than 300,000 ethnic Turks which led not only to much human misery, but also to a serious shortage of labour and contributed to the fall of Todor Zhivkov.

In Turkey the oppression of the Kurds has resulted in endless fightings in the region bordering to Syria and Iraq and in Kurdish desperate demands for an independent Kurdistan.

In Greece the Turkish minority is much too small to present any danger to the society. The treatment of this population as second class citizens has harmed not only the ethnic Turks but even more the reputation of Greece as a civilized society.

In East Europe the ideology which prevailed until quite recently did not respond to the needs of the various ethnic groups. The ideal was rather to cultivate the proper Soviet man. In the West we have been more concerned with protection of the human rights of the individual. Now it may be time to develop principles protecting the many different cultures which make Europe, and make the cultural richness of Europe. Democracy in itself is not the solution to minority problems. Democracy is after all majority rule. We may hope that our conference will result in enlightened, precise and convincing principles for the treatment of minorities by the state.

I wish to put four questions to the conference when analyzing and evaluating policies:

1. *What is the historical or psychological background of the policy?*
2. *What are the intentions behind the policy? Is it a desire to produce complete assimilation: the Soviet man or the perfect Turk, Bulgarian or Greek or Romanian out of the great many ethnic, linguistic or religious minorities living in these countries. Do we want a mono-culture rather than a multitude of cultures interacting?*
3. *What political instruments are being used in order to reach the goals of the government policy?*
4. *And what are the effects of these instruments?*

I hope the conference will throw some light on these questions, even though we cannot expect to reach final answers.

The four minorities we shall be discussing are chosen as illustrations to the main theme of the conference. Let us discuss the situation of these four minorities and the treatments to which they are subject in order to get a better understanding of the factors which make states behave the way they do, and in order to find at least tentative answers to the questions I have raised.

In other words: let us behave as social scientists and forget all about national pride!

I am well aware of the explosive nature of these minority problems and I therefore urge you to harness your emotions and to avoid a too heated discussion about the minority in whose fate you may be especially interested.

Let us instead try to reach consensus about some principles for minority protection. The concluding conference report to which you all may contribute should inspire the official meeting on the Human Dimension of the CSCE process, where the ethnic conflicts in Europe will be one of the most important topics.

I ask you to consider the need for more detailed principles for the protection of minorities.

I believe that most states have ethnic minorities who need protection in order to feel that they are *not only in law but, in fact*, equal to the rest of the population.

There is a need, I believe, not only for detailed, substantive rules, but also for institutional reforms.

For obvious reasons it is unfortunate that the Turkish minorities in Greece and Bulgaria should look to Turkey for protection just as the ethnic Hungarians in Romania look to Hungary for protection. Minority problems should not be party of the power struggle between states. No state seems to be interested in protecting the Kurds.

All four minorities and many more ethnic groups need an international institution with real powers for their protection. I would like to see the establishment of a Commission for the protection of the minorities in Europe. Such a Commission of independent experts should have access to study the situation of the many ethnic minorities of Europe and should have the same rights as the

CSCE-states to use the so-called diplomatic mechanisms of the Vienna Concluding Document.

The Council of Europe might provide the institutional framework for the Commission.

The policy pursued by the state is the subject of our conference. The root of the problem, however, is the psychological phenomenon, the herd instinct, which leads us to form social groups and to dislike foreign groups. How can we avoid such ethnic conflicts? Should that be the subject of another minority conference?

The Conference Dynamic

The conference was concentrated into a long weekend and, as the participants were drawn from a wide variety of countries and backgrounds, papers by the plenary speakers and the minority group spokesmen were distributed in advance. Additionally, profiles on ethnic Turks in Bulgaria, ethnic Hungarians in Romania and Kurds in Turkey were also provided by the Minority Rights Group. A considerable amount of time was allowed for social interchange. The conference opened with a dinner, on the second evening a reception was given by Bjorn Elmquist (M.P.) on behalf of the Danish Parliament, and throughout the meeting a generous amount of time was allowed for coffee and lunch breaks.

Professor Erik Siesby set the tone of the conference explaining its objectives. This was followed by presentations by Professor Danilo Turk on "Minority Protection in Human Rights Conventions," Professor Emmanuel Turczynski on "The History of Minorities and Minority Policies," Professor Galino Staravojtova on "Aims, Means and Results of Different Minority Policies" and Gudmundur Alfredsson on "The UN Declaration on Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities" that established a springboard for the dialogue and debate.

Following these open addresses the panel discussions opened the way to wide participation from conferees and, including the panelists, 24 substantive contributions were made, many of which sowed the seeds for the recommendations and conclusions.

Subsequently almost half of the conference was dedicated to discussions in five different working groups, with about 30 participants in each, and to receiving and debating their conclusions. Minority groups spokespersons were deliberately given the floor in the plenary to introduce their concerns and to describe the situation of Kurds in Turkey, ethnic Turks in Bulgaria and Greece and ethnic Hungarians in Romania. Dr Rudolfo Joo generously agreed to make his presentation on ethnic Hungarians in Romania in the working group, to ensure that there was enough time for the other working groups discussions.

All participants were able to choose which working group they wished to attend and it emerged that 71 people wanted to attend the discussion on minority policy and practice. Consequently, shortly before the discussions, this working group was divided into two, one discussing legal and political issues and the second discussing cultural and social issues. The conference was indebted to the Chairman and rapporteurs who agreed to the new arrangements at very short notice.

Each working group benefitted from introductory presentations by experts, then the groups sought to provide an inventory of the concerns of the minority group and make proposals. The discussions may be characterised as honest, robust and constructive in their attempt to list the complaints of minorities to understand the response of majorities and to make practical policy recommendations.

The working groups did their best to review the civil, political, cultural, social and economic rights of minorities. This task was undertaken not as a tribunal but as a contribution to enhancing minority rights within the framework of the Universal Declaration of Human Rights while being sensitive to minority responsibilities and majority rights. The rapporteurs presented the conclusions and recommendations of each of the working groups to the plenary sessions and prepared the written reports, which represent their assessment of the discussion.

Summary of Recommendations of the Working Group on the Kurds in Turkey

CHAIRMAN: ***Asbjørn Eide***
RAPPORTEUR: ***Hester Minnema***

- Taking into consideration the text of the paragraph 19 of the Vienna Concluding Document of the CSCE, the Working Group declares that there exists a Kurdish population within Turkey.
- The Working Group stresses the need for the current Turkish Constitution to be changed to the extent that care be taken to provide for the recognition of all groups and their rights.
- The Working Group recommends that legislation on the exclusive use of Turkish and legislation on political and cultural life be amended; in particular the law on political parties, the Law on Associations; the Law on the Press and Penal Code, which all restrict the exercise of minority rights.
- In reference to the Draft Convention of the Council of Europe on Regional or Minority Languages in Europe, the Working Group urges that care be taken to ensure that the question of what languages be covered by the Convention be not left to the state, but be considered on the basis of objective criteria, and that the Kurdish language be included.
- The Working Group holds that Turkey should guarantee the right to life of the Kurds and members of all other groups.

■ The Working Group recommends that Turkish law enforcement agencies and security forces strictly abide by the UN Resolution on the use of force, and that persons who act beyond the limitations of the Resolution be prosecuted. The Working Group in particular expressed concern that some provisions of the Turkish Emergency Law go beyond the limitations of the Resolution. In all circumstances care should be taken not to use violence against civilians.
■ The Kurds who have fled from Iraq should be treated on the same level as refugees and Turkey should withdraw its reservation to the International Convention on Refugees. Also other members of the international community are urged to recognise those persons as refugees.
■ Concern was expressed about the occurrence of forced resettlement of population in the area inhabited by Kurds, which affect the demographic structure of the area.
■ The Working Group recommends that the forthcoming CSCE Conference on Human Dimension explore the possibility of a fact-finding to examine the occurrence of violence in the regions where Kurds live.

We believe that this violence can only subside if special care is taken for the rights of the Kurds and other non-Turkish ethnic and national groups.
■ Many participants of the Working Group argued that the problem of the Kurdish people cannot be dealt with solely within the confines of the Turkish state, since the Kurds live in an area which is presently divided between several countries.

While the Working Group recognised that the present meeting was limited to the Kurds in Turkey, these participants felt that the question of Kurdish nationhood should be examined on another occasion, for instance in pursuit of the proposal by Academician Andrej Sacharov that the General Assembly of the United Nations examine the problem. These participants also argued that the region in which the Kurds live be called "Kurdistan".

Summary of the Working Group on the ethnic Turkish Minorities in Bulgaria & Greece

CHAIRMAN: ***Professor Torkel Opsahl***
RAPPORTEUR: ***Björn Cato Funnemark***

The Rapporteur faced considerable difficulty in his task because of the often contentious nature of the subject. The Working Group examined the situation of two ethnic Turkish minority groups but there were significant differences between them which meant that each minority had to be discussed separately. While the Working Group was able to reach a number of common conclusions on the ethnic Turks of Bulgaria, this proved impossible while debating the minority situation in Greece, where the Working Group was unable to agree even on terminology. The Conference's term "the Turkish minority in Greece" was consequently disputed by the Greek participants who insisted on "the Muslim minority in Greece". There was also considerable disagreement in describing and interpreting the basic facts concerning the minority situation in Greece.

I. Bulgaria

(a) The working group felt that the democratisation process in Bulgaria of the post-Zhivkov era has resulted in improvement of the conditions of the Turkish minority and all participants expressed hopes for further and more substantial changes.

Positive changes to date include:
■ A new law which permits the restoration of the hitherto (since 1984) forbidden Turkish-Muslim names. The new law is however, not regarded as entirely satisfactory because, as a result of a political compromise, the Turks must go through a court procedure in order to officially restore their old Turkish-Muslim names.
■ Preparations have begun for the restoration of Turkish culture in Bulgaria. The Turkish newspaper *Yeni Isik* (Bulgaricized into *Nova Svetlina* in 1985) has already appointed a chief editor and editorial staff and is to be published shortly.

(b) The main demands of the Turkish minority in Bulgaria are:
■ Social and economic rights, including restoration of their former employment to those Bulgarian citizens who emigrated under duress to Turkey but later returned to Bulgaria. Some of these people also lost their houses (contrary to official Bulgarian policy at the time).
■ Cultural rights including schools with Turkish as the language of instruction, Turkish newspapers and books etc. One participant suggested would be a positive move to start combined schools where various subjects would be taught in both Turkish and Bulgarian.
■ A most serious issue from a humanitarian point of view was the situation of the remaining political prisoners in Bulgaria. In the wake of the forced assimilation campaign from 1984, a number of Bulgarian Turks were falsely accused of espionage and sentenced to many years of imprisonment. The Working Group called for the release of these political prisoners.

II. Greece

The areas of fundamental disagreement were:
Interpretation of factual evidence. All references to violations of the rights of the Turkish (or according to the Greeks, the Muslim) minority were entirely or partly denied by the Greek participants.

The terminology used by the conference "the Turkish minority in Greece" (or Northern Greece) was not accepted by the Greek participants who consequently used the term (which is

in official usage in Greece), the "Muslim minority in Greece". The "Muslim minority" is the exact term used in the Lausanne Treaty of 1923 which regulated the Greek-Turkish affairs after World War I and referred to the minorities by their religion and not by their ethnic national identity. Some of the Greek participants explicitly admitted however that there did exist a "minority of Turkish descent in Greece". One participant submitted a written annex to the Working Group: "...I would like to suggest that the term "Turkish" or "Turks" in Northern Greece be changed into the correct one "Muslim" or "Muslims in Northern Greece"... I would like to underline that if we retain the incorrect term "Turks" or "Turkish" this will create serious political, legal, religious, social and economic implications. It will constitute the basis for counter-productive effects for the Muslim minority in Northern Greece...".

These fundamental disagreements made it extremely difficult to reach common conclusions.

The main grievances expressed by the Turkish minority in Greece are:

- The right to be called "Turks" or "Turkish minority in Greece" – while claiming simultaneously to be loyal Greek citizens.
- Discrimination in daily life especially in the social and economic field.
- There are difficulties in gaining an education in Turkish, especially as Turkish teachers educated in the Republic of Turkey are not permitted to teach Turkish in Greece. Turkish newspapers printed in Turkey are not imported in Greece and it is not possible to buy Turkish books.
- Expropriation of Turkish owned land.
- Physical attacks on members of the Turkish community.
- It is claimed that some Turkish villages are placed unnecessarily within the restricted border zone.
- Fear of losing Greek citizenship if visiting Turkey.

The main arguments put forward by the Greek "majority" were:

- Allegations of systematic discrimination of the minority in Northern Greece were unfounded.
- The imprisonment of Dr Sadik Ahmet did not constitute discrimination against the Muslim minority in Greece, because the Greek courts are independent institutions and Dr Sadik unlike other minority representatives in Northern Greece, is not a moderate.
- Weekly Turkish language newspapers are published in Greece.
- The Turkish government is overtly involved in the internal politics of the Muslim minority.
- The Turkish annexation of Northern Cyprus has created a fear of a similar occurrence in Northern Greece.

Due to fundamental disagreements by participants on terminology and interpretation of factual evidence, the Working Group was unable to reach common conclusions. However it was able to endorse some positive measures.

- The establishment of a Department of Turkish Studies at university level in Komotini and Xanthi.
- The establishment of a common "Christian and Muslim" (or in Conference terminology – "Greek and Turkish") "Watch Committee" in Western Thrace.
- The possibility of "Turkish schools allied to a Greek education".
- Dr Sadik Ahmet's written submission that the Turkish minority are "loyal Greek citizens".

III. Annex On Minority Definition

A personal annex on the definition of minorities and self determination was made by one participant:

- The "right to self determination" is different from the "rights of minorities".
- "Self determination" implies: (a) division of states (b) creation of separate states (c) joining new territory to already existing states.
- The "rights of minorities" must be understood as rights within the framework of a state border.

Summary Report for Working Group on ethnic Hungarians in Romania

CHAIRMAN: ***Martin Ennals***
RAPPORTEUR: ***Dr Steven Sampson***

The discussion of the Hungarian minority in Romania took its point of departure in the recent violent clashes between Hungarians and Romanians in the town of Tirgu Mures. In the context of these recently heightened tensions, the working group discussed three aspects of the Hungarian minority situation in Romania: the actual situation and its immediate causes, the lessons to be learned and recommendations to be made.

I. The Concrete Situation

Transylvania, the northwestern region of present-day Romania, contains approximately two million Hungarians. Transylvania has a long history of multiethnic settlement in which several nationalities – Romanians, Hungarians, Germans, Gypsies, Jews, etc, have been able to live in peace, although there has occurred social inequality and periods of conflict.

Historical forces may be able to explain the origins of these conflicts, but they must certainly not be used as either a justification for perpetuating tensions or be seen as a barrier to improving the situation.

Participants agreed that the Hungarian minority suffered under the Ceausescu regime. There was disagreement as to whether this suffering was simply different from that of Roma-

nians or more intense due to the "double oppression" of being oppressed citizens in a dictatorship, and an ethnic minority. There were clear tendencies in the Ceausescu period of a policy toward assimilation, elimination or reduction of minority institutions, and Romanian ethnic chauvinism. Under the Ceausescu regime both Romanians and Hungarians experienced tensions and perpetuated ignorance of each others' legitimate needs and interests.

Since taking power in December 1989, the new government has declared its intentions to rectify the circumstances of Romania's minorities. New laws have been enacted, policies declared and committees formed, including a Democratic Union of Magyars which speaks for the Hungarian minority. Yet tensions between the nationalities remain. These tensions are due to Hungarians' expectations that all their demands be met immediately, ignorance among the two groups as to the background for demands and interests, the short time which the new government has been in power, failure by the authorities (national and local) to fully understand and deal with the nature of the situation, and toleration of extremist ideologies.

The tensions from the Ceausescu era and the activities of the Hungarian minority in pursuing its demands in recent months have also generated anxiety on the part of the Romanian majority population. The situation is complicated by the fact that ethnic Romanians, despite making up approximately 90% of Romania's population, constitute a demographic minority in some regions of Transylvania. The Hungarians' pursuit of ethnic autonomy are viewed by some Romanians as "separatism", as a masked form of irredentism and as discrimination by Hungarians against Romanians.

The anxiety and lack of understanding regarding minority rights and demands has created a high degree of tension between the ethnic groups. The recent outbreaks of violence in the city of Tirgu Mures are a manifestation of these tensions. Chauvinism and extremism exist among both ethnic groups.

Working Group participants agreed that there is a need for accurate information about what happened in Tirgu Mures and why it happened, and that there should be a self-analysis among both Romanians and Hungarians.

II. Lessons to be learned

There is a need to guarantee minimum rights for the national minorities, including cultural and linguistic rights.

There is a need to extend the sphere of self-administration in all spheres of life.

Education of the population is needed regarding the problem of loyalties. It is possible and desirable to be loyal to one's own ethnic group and to the state, simultaneously.

It is incorrect to see the problem as solely a lack of education among the general population. Education, re- education and full understanding of basic concepts (e.g. autonomy) are also needed for the intellectuals and leaders of the ethnic communities.

It is clear that the minority populations cannot be satisfied by declarations of state intentions to guarantee their protection. They must have concrete evidence that these guarantees can and will be carried out.

One way to ensure this is through international concern and monitoring in accordance with the government's declared international commitments to various Human Rights agreements.

III. Recommendations

- Dialogue should be stimulated between the national communities in Romania. This dialogue must foster mutual understanding and respect for the rights of the various groups. The dialogue must be carried out between the general population and the intellectual community.
- The relevant international experience of dealing with minority problems should be utilized not as a model to be followed, but seen as an experience in how dialogue should be stimulated, so as to find mutually acceptable solutions.
- There is a need to constitute a new set of policies within the CSCE concerning rights for national minorities and means of finding adequate mechanisms for their implementation.
- Increased international contacts should be fostered in order for others to understand the minority situation in Romania, and for different groups from Romania to understand how minority problems are dealt with in other countries. The experiences of Finland and Switzerland are relevant in this context. Every effort should be made to allow all groups from Romania, including those whose views lie on the extreme, to take part in these contacts to further understanding.
- There should be increased cooperation within the framework of established international organizations such as the Council of Europe, CSCE, ILO, UNESCO, as well as cooperation under existing international conventions, regarding aspects of minority rights. This would include rights connected with work and labor (ILO), education and culture (UNESCO), international contacts and in the area of children's rights.
- We should stimulate the understanding of ethnic consciousness by a mutual (inter-ethnic) writing and re- writing of history, better school text books, and by fostering the understanding by the majority population that assuring collective rights for the minority does not constitute "separatism".
- We should help build bridges between the ethnic minorities and international bodies as well. One "bridge" may constitute those citizens who have parents from each of the groups. another may be contacts between members of a group and fellow ethnics in other countries.

The Working Group on minority policy – aims, means & results (on cultural and social issues)

CHAIRMAN: *Tanja Petovar*
RAPPORTEUR: *Professor Helen Krag*

The discussions in the group on cultural and social aspects of minority policies covered such topics as language – including bilingualism, education – questions of social mobility, research and ethics. Actively participating were 40 persons representing various approaches and countries – majorities as well as minorities, Western as well as Eastern European, Southern as well as Northern European.

The agenda set for the group included a discussion on the possible preconditions for securing minority rights:

- Democracy as a necessary, but not sufficient, precondition for minority rights
- The importance of education for the improvement and development of minority rights
- The establishment of networks of minorities and 'friends of minorities'

The objectives of the discussions were to reach consensus on some recommendations and to extract the main issues that need further debate and evaluation.

The following conclusions can be drawn from the discussions:

- The terminology applied in the field, as well as the definitions connected to terms, need constant rethinking. Discussing the concept of 'minority' as such was useful to reapply the definition of minority as a 'non-dominant ethnic groups'. Minority problems were finally interpreted as reflecting problems of relations, not of fixed status or of personal characteristics, including those between minority and majority groups, between different minorities in a region or between agencies of power and minorities.
- After a lengthy discussion on democracy, both on a general and an experiential level (referring to the experience of the participants), the group agreed that the minority issue calls for new forms of democracy, as it is precisely the idea of majority rule that makes minorities dependent, especially in situations of conflict. It was questioned whether democratic rights have anything to do with ethnic rights, and a combination of autonomy and representation seemed to be a minimum condition for minority rights. It was concluded that the pluralistic aspects of democracy are vital.

A pluralistic view entails that one can learn from each others experience, while the applicability of solutions for managing minority problems applied in one context (for instance of northern European patterns) is not necessarily useful in other contexts (for instance in southeast Europe). Both forces and draw backs of northern patterns were discussed and it was stressed that we must have more knowledge about minority policies in other countries. It was concluded that external models must adapt to regional circumstances.

The current situation in some of the countries discussed at the Conference was characterised as new and specific due to the post-communist transition to democracy. Taking into consideration the varied heritages of the countries in southeastern Europe, i.e. their various historical and ethnic experience within the Habsburg, the Ottoman and the Leninist tradition of government, it was agreed that entirely new approaches must be established if the urgent problems are to be solved.

- Minority rights should not be a reflection of a majority's concern on behalf of minorities, but should enable the minority to have its own voice. Even though there were divergent opinions on educational solutions (for instance on segregational versus integrational education) there was consensus that one of the most pressing issues is the implementation of linguistic human rights, reflecting the increasing importance of language in modern society. The role of language in building a minority's identity as a means of taking part in society on equal terms was discussed at some length. It was stressed that knowledge of the language situation in various countries is needed. The group did not agree whether census-contained identifications on language affiliation were a sine qua non or if they could be used in a discriminatory way. The group did agree however that any classification should build on self-identification, not identification by others.

It was stressed that preliminary declarations on linguistic human rights do exist and should be included in discussions on minority rights.

- During the working groups' discussions on the most pressing issues – further developing our understanding and avoiding conflict – it was suggested, but not agreed, to establish a court or a minority ombudsman to decide on controversial cases.

The discussions within the working group were summed up in a final proposal that two different bodies ought to be established:

(a) an interdisciplinary network of experts for comparative research should be organised in order to provide decision-makers and activists with profound knowledge and expertise about the vast experiences made all over the world,

historically and culturally, as well as socially and politically in creating and solving minority problems.

(b) a regional monitoring committee should be established in Southeast Europe and other regions of possible conflict. Such a committee should have the form of a federal mechanism consisting of minority activists, experts and national as well as international NGOs. The committee should spring from the work of the CSCE-conference in Copenhagen 1990 and Moscow 1991.

The Working Group on Minority Policy – Aims, Means & Results (legal and political)

CHAIRMAN: *Dr Ake Sparring*
RAPPORTEUR: *Professor Claire Palley*

The Working Group commenced its work by adding to it an international relations perspective, namely, that the aims of minority policies should, in addition, be to further harmonious relations between states and to reduce and resolve inter-state conflict arising out of minority problems.

The Working Group tackled the intractable problem of defining what constitutes "a minority". discussion brought out the effective impossibility of reaching consensus on a detailed definition. Even agreement on a mere "working definition" proved elusive. Although initially minorities were defined functionally as groups who needed protection, once closer definition was attempted, anthropologists emphasized the cultural dimension of minorities in a bi-cultural situation; and others emphasized the sociological aspect of minorities as non-dominant groups. It was questioned whether groups with special needs, such as the indigenous peoples who require land protections, or migrant workers, immigrants, refugees, aliens, the sexes or those with differing gender preferences, were to be considered minorities and whether they should be accorded special collective rights.

Some suggested that proper implementation of human rights' norms, especially anti-discrimination provisions, might be sufficient protection. Democracy, it was urged, was also protection. Consensus emerged that democracy in itself was not enough and that majoritarian democracy threatened rather than protected minorities. Furthermore legal protection alone did not suffice, and equality in fact was needed.

Just as UN organs have discovered over the last 25 years, it proved impossible to achieve consensus on a definition and the Working Group agreed that another methodology of determining what constituted "a minority" was essential. In the vast majority of cases it is clear whether or not a group constitutes "a minority". This approach fitted precisely with existing CSCE standards. Already Principle 7 of the Helsinki Final Act and Principle 19 of the 1986 Participating States, refer to "national minorities", leaving the matter of interpretation to the Participating States to resolve. an advantage of this methodology is that it gets round the problem of avoidance of protection by reliance on the technicalities of definitions. Nonetheless, protection in the last instance depends upon the international community being willing to characterise a particular group as "a minority".

The Working Group then addressed the question whether "minorities" required anything more by way of collective rights, apart from a degree of autonomy and possibly internal self-determination, in view of existing international human rights norms. It was first emphasised that States should be encouraged to respect their undertakings and also to accept Conventions not yet accepted by them. The existing international machinery, whether regional – as in the Council of Europe System – or universal – as under the two UN International Covenants, the Covenant on the Elimination of Racial Discrimination and the Torture Convention – should be fully utilized. In particular the CERD Convention, Article 14, should be utilized by more States to give the CERD Committee competence to receive complaints by groups and individuals.

Secondly, it was necessary to create an institutional framework and procedure. This would be significant for international security and good inter-State relations because, if the only potential protector was a State with ethnic ties to the minority in another State, this made minorities a further element of friction in the power game between States. If concerned minorities have direct access to the international machinery of complaint, the risk of neighbouring States being forced into and cast in the role of simultaneous protector and threatener of security will be much diminished.

Thirdly, in relation to the substance of new collective rights for minorities, it was agreed that, even if scrupulously observed, existing international human rights norms did not cover all the needs of a group in ensuring its continuance as such in accordance with its members' desires. Groups needed additional rights for their preservation. In a preliminary attempt to identify the necessary rights the Working Party welcomed the UN Human Rights Commission's recent first reading of a Draft Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities and also the UN Draft Universal Declaration on Indigenous Rights. There was also broad agreement that the following five group rights were necessary:

I. The right of minorities to appropriate educational facilities supported by public funding;

II. The right of minorities to financial support for cultural development;

III. The right of minorities to religious facilities;

IV. The right of minorities to use their own languages in public life, in courts and in all public administrative proceedings; and

V. The right of minorities to an appropriate degree of autonomy and to some self-government, with consideration being given to whether this should be functionally or territorially based.

The Working Group finally addressed other ways to make progress, apart from encouraging the work of the UN Human Rights Commission on the Draft Declaration on the Rights of Persons belonging to Minorities and from encouraging States to adhere to all international human rights conventional machinery and scrupulously to observe their existing undertakings. The consensus was that experience showed that evolution of new substantive stan-

dards was a very slow process, especially when new treaties had to be agreed and procedure was intended to operate universally. Nonetheless, the Working Group believed that there were hopeful developments which would facilitate progress both by way of providing a structural basis for advance and by creating effective machinery for giving effect to existing international standards.

Firstly, ever since the Declaration on Friendly Relations by the UN General Assembly in 1970 it has been recognised by the international community that respect for and promotion of human rights was the duty of all States and that each State had the right and duty to concern itself the world over with such matters. The expression of concern was not to be construed as an illegitimate intervention within the domestic jurisdiction of another State.

Secondly, recent initiatives by the Council of Europe, beginning with the Draft Charter for the Regulation of Minority Languages and its subsequent expansion to cover a wide range of minority rights, pointed major ways forward. It was envisaged that:

- Independent experts would monitor application of the Charter when adopted and would receive reports by minority groups in States, while the experts could investigate and report to Council of Europe organs;
- All Members of the Council of Europe had already been invited to submit reports on their measures and legislation applicable to minorities;
- There would be an optional procedure allowing direct access by minorities and allowing individual States to accede to this;
- The future charter procedure would be open to all European States and not merely to current Members of the Council of Europe. Indeed, Yugoslavia and Hungary were already sending observers to the drafting groups; and
- There was the pragmatic advantage that the Council of Europe had an existing mechanism and Secretariat to process the large volume of material and information that would be generated and also had experience in dealing with rights issues.

The third factor was that there was a will, particularly within the CSCE framework, on the part of States to take up the issue of minorities which were now seen as a major issue within Europe.

The Working Group believed it likely that, were problems not dealt with at an early stage, there would be flare-ups between States. Resolution of possible conflict arising from minority issues was and would continue to be a major security problem and needed an inter-State political framework and structures. Establishment of new international legal standards for minorities is desirable, as is expert reportage, but these developments will not in themselves be enough. What is essential is the political will of States to utilize, or to elaborate upon, their existing structures to take preventive action and ultimately to evolve enhanced standards. The international community would be the main defenders, but minorities should themselves, if conflict was to be avoided, have access to any process as participants and not remain as mere subjects of a discussion. It was particularly noted also that CSCE had pioneered effective military security monitoring and might well evolve a similar process of Observers in the field.

In view of this convergence the Working Group believed that the best way forward was to proceed from what existed and in particular, to concentrate on the existing CSCE framework within which 35 States have already manifested their will to "protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory" (Concluding Document of the Vienna Meeting 1986, Principle 19)

The Working Group believed that through the CSCE's forthcoming meetings, first in Copenhagen on the human dimension and then in Moscow, further institutional protection could be developed in the interests of the identity of the relevant minorities, of the human rights of individual members of minorities and citizens generally, and in the interests of international security. Appropriate institutions will then be in a position to evolve new and enhanced standards and to monitor these. To this end the Working Party drafted Proposals on the Future Development of the CSCE Activity Relating to Minorities, which it agreed to submit to the plenary meeting of the Conference on Minority Rights – Policies and Practice in Southeast Europe.

Conclusions

It would be difficult to conceive of a more controversial and emotive subject for a conference or to invite a wider range of people with more diverse experiences to join a discussion. Yet the group recognised that these issues of minority rights were central to achieving security and cooperation in Europe.

All the participants knew the detail of the remarkable and irreversible changes which had occurred in Europe in the last year; seemingly insolvable political issues had been confronted and conquered with courage and conviction. This provided inspiration to the debates. The Conference, in the real spirit of glasnost, opened up taboo subjects for discussion and involved political adversaries, academics, international experts, diplomats, minorities and NGO's in open and fruitful debates. There was a refreshing honesty and realism by the conferees who recognised the immense problems of sovereign states on issues such as autonomy, while seeking ways of promoting minority rights and responsibilities. The Conference also realised that it was essential to recognise and resolve the problems involving minorities before civil conflicts arose and the problems became unmanageable.

This dialogue would have been almost impossible outside the framework of a non-governmental forum, the practical recommendations would have been unlikely in an academic or expert conference, and the respect for civilised debate and respect for the views of all parties were helped by its venue in the Folketinget, the Danish Parliament.

The blossoming of parliamentary democracy in many Eastern European states may herald new ways for minorities to express themselves and achieve previously denied freedoms. However, parliamentary democracy can be interpreted as majority rule over minorities and, in this form, represents no guarantee of an improvement for minorities. Indeed, politicians seeking to gain power may exploit fear, prejudice and xenophobia and may advocate the denial of minority rights.

In the discussions it became clear that democracy implied government of all the people, by all the people, for all the people. Plural government and the participation of all sectors of the community in all levels of political decision making and in all aspects of social administration were important prerequisites to build harmonious community relations. Minority and majority communities must be allowed and encouraged to preserve and develop their own religious, linguistic, educational and cultural institutions. At the same time, every effort should be made to build links between communities and to break down prejudice and misunderstanding through programmes of public education, including a thorough reassessment of school education materials.

Two working groups on policy and practice discussed what constitutes a minority and it was impossible to reach a consensus that would include and accurately describe all minorities. In the large majority of cases, including the four countries under review, it was clear who the minority was and it was agreed that in practice groups can be considered on a case by case basis by relevant parties. In the past, many of those who wished to avoid protecting minorities had delayed and limited the process by demanding tight definitions of a minority.

Programmes of action are required not only to prevent discrimination but also to provide positive initiatives to protect minorities and to ensure equality of opportunity. Minorities should take an active part, building links with communities abroad and learning from the experience of other minorities especially where conflicts had been resolved.

I. Specific Proposals

States should provide information on the numbers and location of minorities living on their territories with a description of the state's policy on the rights of minorities and evidence of how the policy is being implemented, particularly in relation to:

- Constitutional recognition of minority rights, laws and customs.
- Guarantees of seats in governmental organs and access to intergovernmental organisations if the state is a party.
- Legal protection against incitement to racial, ethnic or religious hatred.
- Participation locally, regionally and nationally in Government administration, the Judiciary, policing and the army.
- Democratic representation in society, including participation in political parties and the ability to establish their own political parties.
- Participation in the educational system at all levels.
- Encouragement to learn and ability to practice their mother tongue.
- Opportunities to become self-reliant and to have equal opportunities in employment, trading, owning, renting and cultivating land.
- The duty of government to obtain consent for development programmes and to protect traditional hunting places and their environment.
- Ability to move freely across borders and to meet together.
- Freedom of expression of their culture, religion and identity, including support of cultural centres and activities to support its identity.
- Establishment of religious institution with the ability of minorities to choosing their own leaders.
- Right to the expression of opinions in the mass media.

This monitoring and measuring should enable States and the International Community, including specialised agencies such as UNESCO and ILO to help in managing change and in providing resources to redress past injustices. States may have to consider new legislation and even constitutional changes should their present practices, by restricting the rights of minorities, possibly lead to conflict.

II. Non-Government Organisations and Researchers

- Non-governmental organisations and researchers should be given opportunities, resources and encouragement to undertake primary research and publish results on minorities in the key areas indicated above.
- They should be encouraged to establish intellectual framework of key indicators of minority rights and to suggest areas for remedial action citing models of good practice where possible.
- Networks of minorities, friends of minorities, academics and non-governmental organisations should be strengthened both to assist minorities in developing a dialogue and to encourage decision makers to redress injustices.

III. Convening of Meetings

- There was a value in carefully constructed meetings of participants from a broad range of European society including governments, NGO's Minorities, and academics to monitor and to seek improvements in the rights of minorities in a constructive manner.
- The role of the Conference on Security and Cooperation in Europe and the Council of Europe was considered paramount and a specific set of proposals has been addressed to them (see p14). The conference noted that non-governmental organisations could not make representations at present in the CSCE process and recommended that this should be changed.
- The UN Human Rights Commission and the Sub-Commission on the Prevention and Discrimination and Protection of Minorities has an important role, although in both these fora the issue of the protection of minorities has been marginalised. The process of the Draft Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities at the Human Rights Commission in 1990 was strongly welcomed. Member states of the CSCE were recommended to promote and strengthen this Declaration at the 1991 meeting and to complete the second reading.
- Bilateral meetings between governments and regional meetings (possibly within the framework of ILO, UNESCO involving a range of NGO participants) should be held to help advance specific minority rights.

Funding the Proposals

Many of the proposals put forward would require additional resources. It was clear that any efforts to improve the protection of minorities through additional rights should not be at the expense of damaging inter-community relations by taking resources from majority populations. Resources were needed for research and monitoring, for discussion and planning, for arbitration and conflict resolution, for public education and information, and for the implementation of the civil, political, cultural, social and economic rights described earlier.

Such costs may be difficult to obtain from hard-pressed finance ministers, but they are a small price to pay compared to the human and financial cost of conflict, the concomitant expenditure on policing and arming and the damage that instability does to an economy. Serious thought should be given to special European funding for programmes for minorities, looking at models of funding that may be drawn from the European Community's experience.

Alan Phillips

Proposals on the future development of the CSCE Activities relating to Minorities

Introduction

The Conference believed that through the CSCE's forthcoming meetings first in Copenhagen on the human dimension and then in Moscow further institutional protection could be developed in the interests of the identity of the relevant minorities and of the human rights of individuals members of minorities and citizens generally, and in the interests of international security. Appropriate institutions will then be in a position to evolve new and enforced standards and to monitor these.

The proposals, which emerged from the Working Group on the legal and Political aspects of minority policy and practice, had in different ways found a resonance in the discussions of the other four working groups. Consequently after a plenary discussion, in which a number of practical improvements were suggested and support was given by the eight speakers from the floor, the following proposals were adopted:

Proposals

■ Participants in the Conference on Minority Rights – Policies and Practice in south-East Europe (Copenhagen, March 30th-April 1st) should encourage the States participating in the CSCE Process (Participating States) to utilize the Vienna mechanism to consider the problems of human rights of persons belonging to national, ethnic, linguistic and religious minorities and to protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory. We appeal to the Copenhagen Conference on the human dimension of CSCE to consider this aspect of the human rights problematique on a priority basis.

■ We suggest that the Participating States at the Copenhagen Conference consider the possibility of inviting all Participating States to submit information about the minorities on their respective territories and about the manner in and the extent to which their policies are designed to "create conditions for the promotion of ethnic, cultural, linguistic and religious identities of national minorities on their territory" (paragraph 19 of the Vienna concluding document).

■ We further suggest that the Participating States consider the possibility of establishing a committee of independent experts coming from a wide range of states to study this information and report on its findings to the conference on the human dimension of the CSCE to be convened in Moscow in 1991.

■ The expert committee referred to in the preceding paragraph should be supported either by a permanent secretariat to be established or by the existing regional institutions, in particular those established within the framework of the Council of Europe. We suggest that the Participating States at the Copenhagen conference consider the possibility of making proposals to that effect to the forthcoming summit meeting.

■ The expert committee should be empowered to receive written communications from non-governmental organizations regarding the position of minorities living in the territories of the Participating States.

■ The expert committee should further be empowered and encouraged to seek and receive additional information from governments of Participating States regarding the position of minorities and to conduct studies based upon this material.

■ The expert committee should also be empowered to establish direct contacts with the minorities concerned and to visit the areas where they live.

■ The expert committee should be invited to propose to the CSCE substantive standards regarding minority rights.

■ Security-related questions of minorities should be addressed in the framework of the CSCE, as appropriate. We appeal to the summit meeting to consider this question among the questions relating to further strengthening of the security of Europe.

Copenhagen, 1 April, 1990

Outcome of Conference

It was agreed that a brief conference report would be published and the major recommendations passed on to governments in May. As the Conference had been so constructive and fruitful, it was important to build on this good will and Conference participants were invited to remain in contact with the Minority Rights Group and the Helsinki Committees and to help in their own professional field to advance the rights of minorities.

Conference administration

The administrative arrangements for the conference were made by Professor Erik Siesby and Fanny Joerup on behalf of the Danish Helsinki Committee. At the time of the conference voluntary help was given by students of the Minority Studies department of the University of Copenhagen to whom the conference expressed its warm appreciation.

The rapporteurs' reports are personal reports and although they endeavoured to reflect the views of the working groups they were not specifically approved by the working group, although they were presented verbally to the plenary session. Similarly the conclusions were not specifically endorsed as a document but were presented and received verbally in the final plenary session.

This report is published by the Minority Rights Group in London, and the original conference papers can be obtained for a fee of 100 DKr from the Danish Helsinki Committee.

Minority Rights Group,
379 Brixton Road,
London SW9 7DE
UK
Tel: 071-978 9498

Danish Helsinki Committee
c/o Prof. Erik Siesby,
The Legal Institute,
University of Copenhagen,
Studiegarden, Studiestraede,
Copenhagen, DK-1455,
Denmark
Tel: 33-91-33-07

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Minority Rights Group

The Minority Rights Group is an international, non- governmental organisation which promotes the rights of minorities and advances research and education on minority issues. The Minority Rights Group exists in over a dozen countries and is eager to strengthen its network of scholars, journalists and others who wish to promote minority rights.

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- The Saami of Lapland
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- Co-existence: European minorities
- Minorities in the Balkans

General Interest

- Race and Law in Britain and the US
- Constitutional Law and Minorities
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Helsinki Committees

The purposes of the Helsinki Committees are to monitor the human rights obligations in accordance with the Helsinki Accords, by fact finding missions, publications, conferences, appeals to authorities etc.

All three Scandinavian Helsinki Committees are affiliates with the International Helsinki Federation, Vienna.

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- By All Parties to the Conflict 1988 (AS 90)
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- Human Rights in Canada 1985 (AS 70)
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